

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

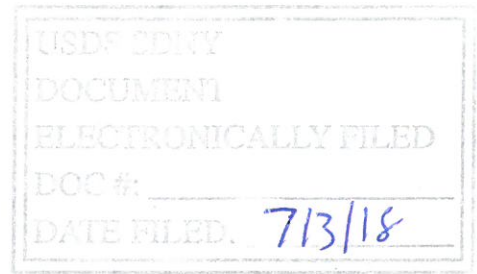
NATIONAL UNION FIRE INSURANCE
COMPANY OF PITTSBURGH, PA, *et al.*,

Petitioners,

-v-

BMC STOCK HOLDINGS, INC.,

Respondent.



No. 18-cv-5777 (RJS)
ORDER

RICHARD J. SULLIVAN, District Judge:

On June 26, 2018, Petitioners commenced this action by filing a petition to compel arbitration pursuant to 9 U.S.C. § 4. (Doc. No. 1.) Petitioners now seek “an Order to Show Cause . . . [and] a hearing on Petitioners’ motion to compel arbitration . . . as soon as the Court’s convenience will permit, and, if at all possible, prior to July 20, when National Union is due to respond to an action Respondent filed in California . . .” (Doc. No. 9.) However, the Federal Arbitration Act does not require a “live evidentiary hearing . . . when a ‘hearing on the papers’ will sufficiently apprise the Court of all legal and factual issues and there are no disputed issues of material fact.” *Epstein Becker & Green, P.C. v. Brown*, No. 10-cv-4784 (LTS), 2010 WL 3835067, at *1 (S.D.N.Y. Sept. 10, 2010) (citing *Marks 3 Zet-Ernst Marks GmBh & Co. KG v. Presstek, Inc.*, 455 F.3d 7, 14 (1st Cir. 2006)). Moreover, Section 6 of the Federal Arbitration Act provides that petitions to compel arbitration “shall be made and heard in the manner provided by law for the making and hearing of motions, except as otherwise herein expressly provided.” 9 U.S.C. § 6; *see also ISC Holding AG v. Nobel Biocare Fin. AG*, 688 F.3d 98 (2d Cir. 2012).

Accordingly, IT IS HEREBY ORDERED THAT Petitioners’ request for an order to show cause is DENIED. IT IS FURTHER ORDERED THAT Petitioners shall file a memorandum of law


in support of their petition by July 13, 2018, Respondent shall submit its opposition to the petition by August 3, 2018, and Petitioners shall submit their reply by August 13, 2018. Once Petitioners' petition is fully briefed, the Court will determine whether it is necessary to hold a hearing in this matter.

IT IS FURTHER ORDERED THAT, by July 7, 2018, Petitioners shall serve Respondent with a copy of this Order and file a certificate of service on ECF indicating that this service was effectuated. Respondent shall thereafter file a notice of appearance through ECF.

To the extent that Petitioners wish to stay the action filed by Respondent in the United States District Court for the Central District of California, they should file a motion to do so in that court.

SO ORDERED.

Dated: July 3, 2018
New York, New York



RICHARD J. SULLIVAN
UNITED STATES DISTRICT JUDGE